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In re Application of: :
HAYABUSA, Naganobu : DECISION REGARDING
U.S. Application No.: 10/582,244 : SUBMISSION UNDER
PCT No.: PCT/JP2005/005135 : 37 CFR 1.42
International Filing Date: 22 March 2005 :
Priority Date: 27 July 2004 :
Attorney's Docket No.: SIP018 :
For: MIXING METHOD FOR POWDER :
MATERIAL AND LIQUID :
MATERIAL, AND MIXER :
:

This decision is issued in response to applicant's 09 June 2006 submission of a declaration executed on behalf of deceased sole inventor Naganobu HAYABUSA by the deceased inventor's legal representative. The declaration has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 22 March 2005, applicant filed international application PCT/JP2005/005135. The international application claimed a priority date of 27 July 2004, and it designated the United States. On 02 February 2006, International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 27 January 2007.

On 09 June 2006, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee, an English translation of the international application, and a declaration executed on behalf of deceased sole inventor Naganobu HAYABUSA by his legal representative Kyoko HAYABUSA. The declaration is considered herein under 37 CFR 1.497 and 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 states in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative (or heirs) must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the declaration filed 09 June 2006 includes the required citizenship, residence, and mailing address information for the legal representative signing the declaration on behalf of the deceased inventor. However, the declaration does not set forth the citizenship of the deceased inventor. Applicants must provide a revised declaration executed by the legal representative of the deceased inventor that includes all required information, including the citizenship of the deceased inventor.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this decision to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised declaration executed by the legal representative of the deceased inventor that includes all the information required by 37 CFR 1.497, including the citizenship of the deceased inventor.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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